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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,280	10/29/2003	Hiroyasu Nishiyama	81940.0060	6493

26021 7590 09/25/2007  
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LOS ANGELES, CA 90067

EXAMINER
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NGUYEN, PHILLIP H

ART UNIT	PAPER NUMBER
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2191

MAIL DATE	DELIVERY MODE
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09/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Interview Summary</b>	Application No.	Applicant(s)	
	10/696,280	NISHIYAMA, HIROYASU	
	Examiner	Art Unit	
	Phillip H. Nguyen	2191	

All participants (applicant, applicant's representative, PTO personnel):

(1) Phillip H. Nguyen.

(3) Robert J. Wu (Reg. No. 60,024).

(2) Wei Zhen (SPE).

(4) \_\_\_\_\_.

Date of Interview: 12 September 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1.

Identification of prior art discussed: Desoli.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's representative discussed the differences between prior art and the invention.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

  
WEI ZHEN  
SUPERVISORY PATENT EXAMINER

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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Attorney Docket No. 81940.0060

Customer No. 26021

system. This passage does not suggest that Desoli performs execution of native code, as the Examiner alleges. Instead, emulation module 110 acts to execute emulated code as if the program was executed natively on the original hardware system. Emulation system 100 executes code written for an original computer system that is incompatible with the host computer system. In other words, Desoli merely teaches emulating original hardware system code (emulated code) and does not disclose or suggest emulating native code.

Furthermore, Applicant assumes this passage was cited for the disclosure of "native execution." However, from the context of the entire passage, the phrase "native execution" clearly refers to the emulated code that is native to the original system hardware and cannot be construed to read on applicant's native code.

Moreover, Desoli discloses that emulated code 116 can be integrated with native code 118 and processed in emulator 102. However, the actual process of emulation occurs only through emulator module 110. Although emulation system 100 executes both native and emulated code, only emulated code is executed by hardware emulation using emulation module 110. Native code is executed on hardware 106 without emulation (*See Desoli; FIG. 1 and Col. 4, lines 61-64*).

To further clarify this feature, Desoli teaches that native hardware 106 is more efficient than an emulated system at executing native code. Accordingly, emulated code 116 is executed by hardware emulation while native code 118 is executed natively. Consequently, the overall execution speed is improved (*See Desoli; Col. 5, lines 23-40*). Thus, emulation system 100 does not emulate both native and emulated code. Each type of code is identified before execution and is executed through the appropriate means, namely hardware 106 or emulation module 110.

Moreover, Desoli discloses that native code 118 may be executed via a dynamic execution layer interface (DELI) 104 (*See Desoli; Col. 4, lines 64-65 and*

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Customer No. 26021

*Col. 3, line 57 – Col. 4, line 7).* DELI is a generic software layer that runs between the emulator 102 and hardware 106 that provides services unrelated to emulation, such as code optimization and code caching. DELI provides an application program interface (API) that allows code optimization and code caching (*See Desoli; FIG. 3 and 5, Col. 6, lines 47-63 and Col. 14, lines 1-3*). Although DELI interfaces with the emulation system, DELI does not execute or emulate code, but merely provides additional services useful for emulated code execution or native code execution.

Even broadly interpreted, code caching is not an emulation process. Applicant submits that it makes no sense for DELI to act as an emulator since Desoli teaches the virtues of natively executing native code without emulation.

Therefore, executed code is merely processed through an additional software layer that optimizes code and provides code caching. The code caching and optimization of Desoli is clearly not an emulation process but merely an execution optimization process. Thus, DELI provides ancillary services unrelated to hardware emulation such that native code is not emulated by DELI.

Thank you for your time and consideration. I look forward to speaking with you.

Sincerely,

Robert H. Wu  
Registration No. 60,024  
Phone number: 310-785-4783  
FAX number: 310-785-4601

# HOGAN & HARTSON

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## TELECOPY/FACSIMILE

<b>To:</b>	<b>Company:</b>	<b>Fax Number:</b>	<b>Tel Number:</b>
Phillip H. Nguyen	USPTO, Art Unit 2191	571-270-2070	

**From:** Robert J. Wu

**For internal purposes only:**

**Date:** September 10, 2007

**Client number:** 81940.0060

**Time:** 10:00 am

**Attorney billing number:** 6514

**Total number of pages incl. cover page:** 4

**Confirmation number:** 213/785-4783

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**MESSAGE:**

PLEASE SEE ATTACHED.

Appl. No. 10/696,280

Attorney Docket No. 81940.0060

Customer No. 26021

## FOR DISCUSSION PURPOSES ONLY

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Hiroyasu NISHIYAMA

Serial No.: 10/696,280

Confirmation No.: 6493

Filed: October 29, 2003

For: INTERPRETER AND NATIVE CODE  
EXECUTION METHOD

Art Unit: 2191

Examiner: Phillip H. Nguyen

### TELEPHONE INTERVIEW AGENDA

Dear Sir:

Applicant would like to thank the Examiner for granting a Telephone Interview, which is scheduled for September 12 at 2:00 p.m., to discuss the following topics outlined below.

After further review of the cited references and the Examiner's comments in the Office Action, the Applicant would like to discuss the context of the cited passages of the Desoli reference with regards to independent Claim 1. In particular, Applicant submits that the applied references do not disclose or suggest the feature of, "a native code emulator that executes the native code through hardware emulation," as recited in independent Claim 1.

As pointed out in the "Response to Arguments" in the last Office Action, Desoli teaches in column 4, lines 14-19 the general principle for emulating code from an original computer system such that the original code appears to be executed on original hardware natively, when in fact it is executed on a host computer